

ADOPTION REVISIONS

2009 GENERAL SESSION

STATE OF UTAH

LONG TITLE**General Description:**

This bill amends provisions of the Utah Adoption Act.

Highlighted Provisions:

This bill:

- ▶ defines terms, including reducing the age of an "adult adoptee" from 21 to 18;
- ▶ modifies provisions relating to determining the venue of an adoption proceeding;
- ▶ modifies and clarifies provisions relating to providing notice of an adoption proceeding;
- ▶ provides that notice of an adoption proceeding may be served at any time after the petition for adoption is filed, but at least 30 days prior to the final disposition hearing;
- ▶ increases the maximum amount required to be paid by a child-placing agency or the prospective adoptive parents for counseling of a parent who is placing a child for adoption from \$250 to \$400;
- ▶ provides that the maximum amount referred to in the preceding paragraph may be increased by a signed agreement;
- ▶ modifies provisions relating to who has the right to consent to an adoption;
- ▶ provides that a court may not refuse to allow or accept a mother's consent to adoption or relinquishment for adoption on the grounds that an unmarried biological father filed an action to establish parentage or complied with, or alleges compliance with, the requirements for an unmarried biological father to preserve the right to consent to an adoption;
- ▶ modifies provisions relating to the dissolution of parental rights;
- ▶ amends provisions relating to who may inspect an adoption petition and related documents;
- ▶ reduces from 21 to 18 the age:
 - of an adult adoptee who may participate in the mutual-consent, voluntary

adoption registry; and

- that a sibling of the adult adoptee who has the same birth parent as the adult adoptee, and who was raised in the same family setting as the adult adoptee, must be before an adult adoptee may obtain information from the mutual-consent, voluntary adoption registry; and

- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

78B-6-103, as enacted by Laws of Utah 2008, Chapter 3 and last amended by Laws of Utah 2008, Chapter 137

78B-6-105, as last amended by Laws of Utah 2008, Chapter 137 and renumbered and amended by Laws of Utah 2008, Chapter 3

78B-6-110, as renumbered and amended by Laws of Utah 2008, Chapter 3

78B-6-115, as renumbered and amended by Laws of Utah 2008, Chapter 3

78B-6-119, as renumbered and amended by Laws of Utah 2008, Chapter 3

78B-6-120, as enacted by Laws of Utah 2008, Chapter 3

78B-6-121, as enacted by Laws of Utah 2008, Chapter 3 and last amended by Laws of Utah 2008, Chapter 123

78B-6-138, as renumbered and amended by Laws of Utah 2008, Chapter 3

78B-6-141, as renumbered and amended by Laws of Utah 2008, Chapter 3

78B-6-144, as last amended by Laws of Utah 2008, Chapter 137 and renumbered and amended by Laws of Utah 2008, Chapter 3

Be it enacted by the Legislature of the state of Utah:

Section 1. Section **78B-6-103** is amended to read:

78B-6-103. Definitions.

As used in this part:

- 64 (1) "Adoptee" means a person who has been legally adopted.
- 65 (2) "Adoption" means the judicial act which creates the relationship of parent and child
66 where it did not previously exist and which permanently deprives a birth parent of parental
67 rights.
- 68 (3) "Adoption service provider" means a:
- 69 (a) child-placing agency; or
- 70 (b) licensed counselor who has at least one year of experience providing professional
71 social work services to:
- 72 (i) adoptive parents; or
- 73 (ii) birth parents.
- 74 (4) "Adult" means a person who is 18 years of age or older.
- 75 ~~[(4)]~~ (5) "Adult adoptee" means an adoptee who is ~~[21]~~ 18 years of age or older.
- 76 ~~[(5)]~~ (6) "Adult sibling" means a brother or sister of the adoptee, who is ~~[21]~~ 18 years
77 of age or older and whose birth mother or father is the same as that of the adoptee.
- 78 ~~[(6)]~~ (7) "Birth parent" means a biological mother, a person whose paternity of a child
79 is established, or an alleged father, who has been identified as the father of a child by the child's
80 birth mother, and who has not denied paternity.
- 81 ~~[(7)]~~ (8) "Bureau" means the Bureau of Vital Statistics within the Department of
82 Health operating under Title 26, Chapter 2, Utah Vital Statistics Act.
- 83 ~~[(8)]~~ (9) "Child-placing agency" means an agency licensed to place children for
84 adoption under Title 62A, Chapter 4a, Part 6, Child Placing.
- 85 ~~[(9)]~~ (10) "Cohabiting" means residing with another person and being involved in a
86 sexual relationship with that person.
- 87 ~~[(10)]~~ (11) "Division" means the Division of Child and Family Services, within the
88 Department of Human Services, created in Section 62A-4a-103.
- 89 ~~[(11)]~~ (12) "Extra-jurisdictional child-placing agency" means an agency licensed to
90 place children for adoption by a district, territory, or state of the United States, other than Utah.
- 91 ~~[(12)]~~ (13) "Genetic and social history" means a comprehensive report, when
92 obtainable, on an adoptee's birth parents, aunts, uncles, and grandparents, which contains the
93 following information:
- 94 (a) medical history;

- (b) health status;
- (c) cause of and age at death;
- (d) height, weight, and eye and hair color;
- (e) ethnic origins;
- (f) where appropriate, levels of education and professional achievement; and
- (g) religion, if any.

~~[(13)]~~ (14) "Health history" means a comprehensive report of the adoptee's health status at the time of placement for adoption, and medical history, including neonatal, psychological, physiological, and medical care history.

~~[(14)]~~ (15) "Identifying information" means the name and address of a birth parent or adult adoptee, or other specific information which by itself or in reasonable conjunction with other information may be used to identify that person.

~~[(15)]~~ (16) "Licensed counselor" means a person who is licensed by the state, or another state, district, or territory of the United States as a:

- (a) certified social worker;
- (b) clinical social worker;
- (c) psychologist;
- (d) marriage and family therapist;
- (e) professional counselor; or
- (f) an equivalent licensed professional of another state, district, or territory of the

United States.

~~[(16)]~~ (17) "Parent," for purposes of Section 78B-6-119, means any person described in Subsections 78B-6-120(1)(b) through (f) from whom consent for adoption or relinquishment for adoption is required under Sections 78B-6-120 through 78B-6-122.

(18) "Presumed or confirmed father" means a man:

(a) who by operation of law under Section 78B-15-204, is recognized as the father of the proposed adoptee, unless:

(i) the presumption is rebutted under Section 78B-15-607; or

(ii) the man was not married to the mother of the proposed adoptee until after the mother consented to adoption, or relinquishment for adoption, of the proposed adoptee;

(b) who is confirmed to be the father of the proposed adoptee under Title 78B, Chapter

15, Utah Uniform Parentage Act, unless the man was not married to the mother of the proposed adoptee until after the mother consented to adoption, or relinquishment for adoption, of the proposed adoptee; or

(c) who is the father of the adoptee by a previous legal adoption.

~~[(17)]~~ (19) "Unmarried biological father" means a person who:

(a) is the biological father of a child; and

(b) was not married to the biological mother of the child described in Subsection ~~[(17)]~~

(19)(a) at the time of the child's:

(i) conception; or

(ii) birth.

Section 2. Section **78B-6-105** is amended to read:

78B-6-105. District court venue -- Jurisdiction of juvenile court -- Jurisdiction over nonresidents -- Time for filing.

(1) Adoption proceedings shall be commenced by filing a petition with the clerk of the district court either:

(a) in the district where the person adopting resides~~[-or]~~;

(b) if the person adopting is not a resident of this state, in the district where ~~[the child was born or in which the child-placing agency that has custody of the child is located; or]~~

(i) the proposed adoptee was born;

(ii) the proposed adoptee resides on the day on which the petition is filed; or

(iii) a parent of the proposed adoptee resides on the day on which the petition is filed;

or

~~[(b)]~~ (c) with the juvenile court as provided in Subsection 78A-6-103(1).

(2) All orders, decrees, agreements, and notices in the proceedings shall be filed with the clerk of the court where the adoption proceedings were commenced under Subsection (1).

(3) A petition for adoption shall be filed within 30 days of the date the adoptee is placed in the home of the petitioners for the purpose of adoption, unless:

(a) the time for filing has been extended by the court; or

(b) the adoption is arranged by a child-placing agency in which case the agency may extend the filing time.

(4) (a) If a person whose consent for the adoption is required under Section 78B-6-120

or 78B-6-121 cannot be found within the state, the fact of the minor's presence within the state shall confer jurisdiction on the court in proceedings under this chapter as to such absent person, provided that due notice has been given in accordance with the Utah Rules of Civil Procedure.

(b) The notice may not include the name of:

(i) the person or persons seeking to adopt the adoptee; or

(ii) an unmarried mother without her consent.

(5) Service of notice as provided in Subsection (6) shall vest the court with jurisdiction over the person served in the same manner and to the same extent as if the person served was served personally within the state.

(6) In the case of service outside the state, service completed not less than five days before the time set in the notice for appearance of the person served, shall be sufficient to confer jurisdiction.

(7) Computation of periods of time not otherwise set forth in this section shall be made in accordance with the Utah Rules of Civil Procedure.

Section 3. Section **78B-6-110** is amended to read:

78B-6-110. Notice of adoption proceedings.

(1) (a) An unmarried biological father, by virtue of the fact that he has engaged in a sexual relationship with a woman:

(i) is considered to be on notice that a pregnancy and an adoption proceeding regarding the child may occur; and

(ii) has a duty to protect his own rights and interests.

(b) An unmarried biological father is entitled to actual notice of a birth or an adoption proceeding with regard to his child only as provided in this section.

(2) Notice of an adoption proceeding shall be served on each of the following persons:

(a) any person or agency whose consent or relinquishment is required under Section 78B-6-120 or 78B-6-121, unless that right has been terminated by:

(i) waiver;

(ii) relinquishment;

(iii) consent; or

(iv) judicial action;

(b) any person who has initiated a paternity proceeding and filed notice of that action

with the state registrar of vital statistics within the Department of Health, in accordance with Subsection (3);

(c) any legally appointed custodian or guardian of the adoptee;

(d) the petitioner's spouse, if any, only if the petitioner's spouse has not joined in the petition;

(e) the adoptee's spouse, if any;

(f) any person who, prior to the time the mother executes her consent for adoption or relinquishes the child for adoption, is recorded on the birth certificate as the child's father, with the knowledge and consent of the mother;

(g) a person who is:

(i) openly living in the same household with the child at the time the consent is executed or relinquishment made; and

(ii) holding himself out to be the child's father; and

(h) any person who is married to the child's mother at the time she executes her consent to the adoption or relinquishes the child for adoption.

(3) (a) In order to preserve any right to notice [~~and consent~~], an unmarried, biological father may, consistent with Subsection (3)(d):

(i) initiate proceedings in a district court of the state of Utah to establish paternity under Title 78B, Chapter 15, Utah Uniform Parentage Act; and

(ii) file a notice of [~~the initiation~~] commencement of the proceedings described in Subsection (3)(a)(i) with the state registrar of vital statistics within the Department of Health.

(b) If the unmarried, biological father does not know the county in which the birth mother resides, he may initiate his action in any county, subject to a change in trial pursuant to Section 78B-3-307.

(c) The Department of Health shall provide forms for the purpose of filing the notice described in Subsection (3)(a)(ii), and make those forms available in the office of the county health department in each county.

(d) The action and notice described in Subsection (3)(a):

(i) may be filed before or after the child's birth; and

(ii) shall be filed prior to the mother's:

(A) execution of consent to adoption of the child; or

(B) relinquishment of the child for adoption.

(4) Notice provided in accordance with this section need not disclose the name of the mother of the child who is the subject of an adoption proceeding.

(5) The notice required by this section:

(a) may be served ~~[immediately after relinquishment or execution of consent]~~ at any time after the petition for adoption is filed;

(b) shall be served at least 30 days prior to the final dispositional hearing;

(c) shall specifically state that the person served must respond to the petition within 30 days of service if he intends to intervene in or contest the adoption;

(d) shall state the consequences, described in Subsection (6)(b), for failure of a person to file a motion for relief within 30 days after the day on which the person is served with notice of an adoption proceeding;

(e) is not required to include, nor be accompanied by, a summons or a copy of the petition for adoption; and

(f) shall state where the person may obtain a copy of the petition for adoption.

(6) (a) A person who has been served with notice of an adoption proceeding and who wishes to contest the adoption shall file a motion to intervene in the adoption proceeding:

(i) within 30 days after the day on which the person was served with notice of the adoption proceeding;

(ii) setting forth specific relief sought; and

(iii) accompanied by a memorandum specifying the factual and legal grounds upon which the motion is based.

(b) A person who fails to file a motion for relief within 30 days after the day on which the person was served with notice of the adoption proceeding:

(i) waives any right to further notice in connection with the adoption;

(ii) forfeits all rights in relation to the adoptee; and

(iii) is barred from thereafter bringing or maintaining any action to assert any interest in the adoptee.

(7) Service of notice under this section shall be made as follows:

(a) (i) Subject to Subsection (5)(e), service on a person whose consent is necessary under Section 78B-6-120 or 78B-6-121 shall be in accordance with the provisions of the Utah

250 Rules of Civil Procedure.

251 (ii) If service of a person described in Subsection (7)(a)(i) is by publication, the court
252 shall designate the content of the notice regarding the identity of the parties.

253 (iii) The notice described in this Subsection (7)(a) may not include the name of a
254 person seeking to adopt the adoptee.

255 (b) (i) Except as provided in Subsection (7)(b)(ii) to any other person for whom notice
256 is required under this section, service by certified mail, return receipt requested, is sufficient.

257 (ii) If the service described in Subsection (7)(b)(i) cannot be completed after two
258 attempts, the court may issue an order providing for service by publication, posting, or by any
259 other manner of service.

260 (c) Notice to a person who has initiated a paternity proceeding and filed notice of that
261 action with the state registrar of vital statistics in the Department of Health in accordance with
262 the requirements of Subsection (3), shall be served by certified mail, return receipt requested, at
263 the last address filed with the registrar.

264 (8) The notice required by this section may be waived in writing by the person entitled
265 to receive notice.

266 (9) Proof of service of notice on all persons for whom notice is required by this section
267 shall be filed with the court before the final dispositional hearing on the adoption.

268 (10) Notwithstanding any other provision of law, neither the notice of an adoption
269 proceeding nor any process in that proceeding is required to contain the name of the person or
270 persons seeking to adopt the adoptee.

271 (11) Except as to those persons whose consent to an adoption is required under Section
272 78B-6-120 or 78B-6-121, the sole purpose of notice under this section is to enable the person
273 served to:

274 (a) intervene in the adoption; and

275 (b) present evidence to the court relevant to the best interest of the child.

276 Section 4. Section **78B-6-115** is amended to read:

277 **78B-6-115. Who may adopt -- Adoption of minor -- Adoption of adult.**

278 (1) For purposes of this section, "vulnerable adult" means:

279 (a) a person 65 years of age or older; or

280 (b) an adult, 18 years of age or older, who has a mental or physical impairment which

281 substantially affects that person's ability to:

- 282 (i) provide personal protection;
- 283 (ii) provide necessities such as food, shelter, clothing, or medical or other health care;
- 284 (iii) obtain services necessary for health, safety, or welfare;
- 285 (iv) carry out the activities of daily living;
- 286 (v) manage the adult's own resources; or
- 287 (vi) comprehend the nature and consequences of remaining in a situation of abuse,
- 288 neglect, or exploitation.

289 (2) Subject to this section and Section 78B-6-117, any adult may be adopted by another
290 adult.

291 (3) The following provisions of this part apply to the adoption of an adult just as
292 though the person being adopted were a minor:

- 293 (a) (i) Section 78B-6-108;
- 294 (ii) Section 78B-6-114;
- 295 (iii) Section 78B-6-116;
- 296 (iv) Section 78B-6-118;
- 297 (v) Section 78B-6-124;
- 298 (vi) Section 78B-6-136;
- 299 (vii) Section 78B-6-137;
- 300 (viii) Section 78B-6-138;
- 301 (ix) Section 78B-6-139;
- 302 (x) Section 78B-6-141; and
- 303 (xi) Section 78B-6-142;

304 (b) Subsections [~~78B-6-106(1)~~] 78B-6-105(1)(a), (1)(b)(i), (1)(b)(ii), (2), and (7),
305 except that the juvenile court does not have jurisdiction over a proceeding for adoption of an
306 adult, unless the adoption arises from a case where the juvenile court has continuing
307 jurisdiction over the adult adoptee; and

308 (c) if the adult adoptee is a vulnerable adult, Sections 78B-6-128 through 78B-6-131,
309 regardless of whether the adult adoptee resides, or will reside, with the adoptors, unless the
310 court, based on a finding of good cause, waives the requirements of those sections.

311 (4) Before a court enters a final decree of adoption of an adult, the adoptee and the

adoptive parent or parents shall appear before the court presiding over the adoption proceedings and execute consent to the adoption.

(5) No provision of this part, other than those listed or described in this section or Section 78B-6-117, apply to the adoption of an adult.

Section 5. Section **78B-6-119** is amended to read:

78B-6-119. Counseling for parents.

(1) Subject to Subsection (2)(a), before relinquishing a child to a child-placing agency, or consenting to the adoption of a child, a parent of the child has the right to participate in counseling:

(a) by a licensed counselor or an adoption service provider selected by the parent participating in the counseling;

(b) for up to three sessions of at least 50 minutes per session; and

(c) subject to Subsection (2)(b), at the expense of the:

(i) child-placing agency; or

(ii) prospective adoptive parents.

(2) (a) Notwithstanding Subsection (1), a parent who has the right to participate in the counseling described in this section may waive that right.

(b) Notwithstanding Subsection (1)(c), the total amount required to be paid by a child-placing agency or the prospective adoptive parents for the counseling described in Subsection (1) may not exceed ~~[\$250.]~~ \$400, unless an agreement for a greater amount is signed by:

(i) the parent who receives the counseling; and

(ii) the child-placing agency or prospective adoptive parents.

(3) Before a parent relinquishes a child to a child-placing agency, or consents to the adoption of a child, the parent shall be informed of the right described in Subsection (1) by the:

(a) child-placing agency;

(b) prospective adoptive parents; or

(c) representative of a person described in Subsection (3)(a) or (b).

(4) (a) Subject to Subsections (4)(b) and (c), before the day on which a final decree of adoption is entered, a statement shall be filed with the court that:

(i) is signed by each parent who:

(A) relinquishes the parent's parental rights; or

(B) consents to the adoption; and

(ii) states that, before the parent took the action described in Subsection (4)(a)(i)(A) or (B), the parent was advised of the parent's right to participate in the counseling described in this section at the expense of the:

(A) child-placing agency; or

(B) prospective adoptive parents.

(b) The statement described in Subsection (4)(a) may be included in the document that:

(i) relinquishes the parent's parental rights; or

(ii) consents to the adoption.

(c) Failure by a person to give the notice described in Subsection (3), or pay for the counseling described in this section:

(i) shall not constitute grounds for invalidating a:

(A) relinquishment of parental rights; or

(B) consent to adoption; and

(ii) shall give rise to a cause of action for the recovery of damages suffered, if any, by the parent or guardian who took the action described in Subsection (4)(c)(i)(A) or (B) against the person required to:

(A) give the notice described in Subsection (3); or

(B) pay for the counseling described in this section.

Section 6. Section **78B-6-120** is amended to read:

78B-6-120. Necessary consent to adoption or relinquishment for adoption.

(1) Except as provided in Subsection (2), consent to adoption of a child, or relinquishment of a child for adoption, is required from:

(a) the adoptee, if the adoptee is more than 12 years of age, unless the adoptee does not have the mental capacity to consent;

(b) ~~[both parents or the surviving parent of an adoptee who was conceived or born within a marriage]~~ the presumed or confirmed father of the adoptee;

(c) the mother of ~~[an]~~ the adoptee ~~[born outside of marriage];~~

(d) a biological parent who has been adjudicated to be the child's biological father by a court of competent jurisdiction prior to the mother's execution of consent to adoption or her

374 relinquishment of the child for adoption;

375 (e) consistent with Subsection (3), a biological parent who has executed and filed a
376 voluntary declaration of paternity with the state registrar of vital statistics within the
377 Department of Health in accordance with Title 78B, Chapter 15, Utah Uniform Parentage Act,
378 prior to the mother's execution of consent to adoption or her relinquishment of the child for
379 adoption;

380 (f) an unmarried biological father of an adoptee, only if he fully and strictly complies
381 with the requirements of Sections 78B-6-121 and 78B-6-122; and

382 (g) the person or agency to whom an adoptee has been relinquished and that is placing
383 the child for adoption.

384 (2) (a) The consent of a person described in Subsections (1)(b) through (g) is not
385 required if the adoptee is 18 years of age or older.

386 (b) The consent of a person described in Subsections (1)(b) through (f) is not required
387 if the person's parental rights relating to the adoptee have been terminated.

388 (3) For purposes of Subsection (1)(e), a voluntary declaration of paternity is considered
389 filed when it is entered into a database that:

390 (a) can be accessed by the Department of Health; and

391 (b) is designated by the state registrar of vital statistics as the official database for
392 voluntary declarations of paternity.

393 (4) A court may not refuse to allow or accept a mother's consent to adoption or
394 relinquishment for adoption on the grounds that an unmarried biological father:

395 (a) filed an action to establish parentage of the child under Title 78B, Chapter 15, Utah
396 Uniform Parentage Act, or any other proceeding to establish parentage in Utah or outside of
397 Utah; or

398 (b) complied with, or alleges compliance with, the requirements of Section 78B-6-121
399 or 78B-6-122.

400 Section 7. Section **78B-6-121** is amended to read:

401 **78B-6-121. Consent of unmarried biological father.**

402 (1) Except as provided in Subsections (2)(a) and 78B-6-122(1), and subject to
403 Subsection (5), with regard to a child who is placed with adoptive parents more than six
404 months after birth, consent of an unmarried biological father is not required unless the

405 unmarried biological father:

406 (a) (i) developed a substantial relationship with the child by:

407 (A) visiting the child monthly, unless the unmarried biological father was physically or
408 financially unable to visit the child on a monthly basis; or

409 (B) engaging in regular communication with the child or with the person or authorized
410 agency that has lawful custody of the child;

411 (ii) took some measure of responsibility for the child and the child's future; and

412 (iii) demonstrated a full commitment to the responsibilities of parenthood by financial
413 support of the child of a fair and reasonable sum in accordance with the father's ability; or

414 (b) (i) openly lived with the child:

415 (A) (I) for a period of at least six months during the one-year period immediately
416 preceding the day on which the child is placed with adoptive parents; or

417 (II) if the child is less than one year old, for a period of at least six months during the
418 period of time beginning on the day on which the child is born and ending on the day on which
419 the child is placed with adoptive parents; and

420 (B) immediately preceding placement of the child with adoptive parents; and

421 (ii) openly held himself out to be the father of the child during the six-month period
422 described in Subsection (1)(b)(i)(A).

423 (2) (a) If an unmarried biological father was prevented from complying with a
424 requirement of Subsection (1) by the person or authorized agency having lawful custody of the
425 child, the unmarried biological father is not required to comply with that requirement.

426 (b) The subjective intent of an unmarried biological father, whether expressed or
427 otherwise, that is unsupported by evidence that the requirements in Subsection (1) have been
428 met, shall not preclude a determination that the father failed to meet the requirements of
429 Subsection (1).

430 (3) Except as provided in Subsection 78B-6-122(1), and subject to Subsection (5), with
431 regard to a child who is six months of age or less at the time the child is placed with adoptive
432 parents, consent of an unmarried biological father is not required unless, prior to the time the
433 mother executes her consent for adoption or relinquishes the child for adoption, the unmarried
434 biological father:

435 (a) initiates proceedings in a district court of ~~[the state]~~ Utah to establish paternity

under Title 78B, Chapter 15, Utah Uniform Parentage Act;

(b) files with the court that is presiding over the paternity proceeding a sworn affidavit:

(i) stating that he is fully able and willing to have full custody of the child;

(ii) setting forth his plans for care of the child; and

(iii) agreeing to a court order of child support and the payment of expenses incurred in connection with the mother's pregnancy and the child's birth;

(c) consistent with Subsection (4), files notice of the commencement of paternity proceedings, described in Subsection (3)(a), with the state registrar of vital statistics within the Department of Health, in a confidential registry established by the department for that purpose; and

(d) offered to pay and paid a fair and reasonable amount of the expenses incurred in connection with the mother's pregnancy and the child's birth, in accordance with his financial ability, unless:

(i) he did not have actual knowledge of the pregnancy;

(ii) he was prevented from paying the expenses by the person or authorized agency having lawful custody of the child; or

(iii) the mother refuses to accept the unmarried biological father's offer to pay the expenses described in this Subsection (3)(d).

(4) The notice described in Subsection (3)(c) is considered filed when it is entered into the registry described in Subsection (3)(c).

(5) Consent of an unmarried biological father is not required under this section if:

(a) the court determines, in accordance with the requirements and procedures of Title 78A, Chapter 6, Part 5, Termination of Parental Rights Act, that the unmarried biological father's rights should be terminated, based on the petition of any interested party; or

(b) (i) a declaration of paternity declaring the unmarried biological father to be the father of the child is rescinded under Section 78B-15-306; and

(ii) the unmarried biological father fails to comply with Subsection (3) within ten business days after the day that notice of the rescission described in Subsection (5)(b)(i) is mailed by the Office of Vital Records within the Department of Health as provided in Section 78B-15-306.

(6) Unless the adoptee is conceived or born within a marriage, the petitioner in an

adoption proceeding shall, prior to entrance of a final decree of adoption, file with the court a certificate from the state registrar of vital statistics within the Department of Health, stating:

(a) that a diligent search has been made of the registry of notices from unmarried biological fathers described in Subsection (3)(c); and

(b) (i) that no filing has been found pertaining to the father of the child in question; or

(ii) if a filing is found, the name of the putative father and the time and date of filing.

Section 8. Section **78B-6-138** is amended to read:

78B-6-138. Biological parent's rights and duties dissolved.

(1) A ~~[birth]~~ biological parent of an adopted child is released from all parental duties toward and all responsibilities for the adopted child, including residual rights, and has no further rights with regard to that child at the earlier of:

~~[(+)]~~ (a) the time the parent's parental rights are terminated; or

~~[(2)]~~ (b) except as provided in Subsection (2), and subject to Subsection (3), the time the final decree of adoption is entered.

(2) The rights and duties of a biological parent described in Subsection (1) who, at the time the child is adopted, is lawfully married to the person adopting the child are not released or terminated under Subsection (1)(b).

(3) The rights and duties of a biological parent described in Subsection (1) who, at the time the child is adopted, is not lawfully married to the person adopting the child are terminated as provided in Subsection (1)(b).

Section 9. Section **78B-6-141** is amended to read:

78B-6-141. Petition, report, and documents sealed -- Exceptions.

~~[The court shall order that the]~~ (1) A petition for adoption, the written report described in Section 78B-6-135, and any other documents filed in connection with the [hearing be] petition are sealed. [Those items are not open to inspection or copying except:]

(2) The documents described in Subsection (1) may only be open to inspection as follows:

(a) in accordance with Subsection (3)(a), by a party to the adoption proceeding:

(i) while the proceeding is pending; or

(ii) within six months after the day on which the adoption decree is entered;

(b) subject to Subsection (3)(b), a court enters an order permitting access to the

documents by a person who has appealed the denial of that person's motion to intervene:

~~[(1)]~~ (c) upon order of the court expressly permitting inspection or copying, after good cause has been shown;

~~[(2)]~~ (d) as provided under Section 78B-6-144;

~~[(3)]~~ (e) those records shall become public on the one hundredth anniversary of the date the final decree of adoption was entered; or

~~[(4)]~~ (f) if the adoptee is an adult at the time the final decree of adoption is entered, the documents described in this section are open to inspection and copying without a court order by the adoptee or a parent who adopted the adoptee, unless the final decree of adoption is entered by the juvenile court under Subsection 78B-6-115(3)(b).

(3) (a) A person who files a motion to intervene in an adoption proceeding:

(i) is not a party to the adoption proceeding, unless the motion to intervene is granted;

and

(ii) may not be granted access to the documents described in Subsection (1), unless the motion to intervene is granted.

(b) An order described in Subsection (2)(b) shall:

(i) prohibit the person described in Subsection (2)(b) from inspecting a document described in Subsection (1) that contains identifying information of the adoptive or potential adoptive parents; and

(ii) permit the person described in Subsection (3)(b)(i) to review a copy of a document described in Subsection (3)(b)(i) after the identifying information described in Subsection (3)(b)(i) is redacted from the document.

Section 10. Section **78B-6-144** is amended to read:

78B-6-144. Mutual-consent, voluntary adoption registry -- Procedures -- Fees.

(1) The bureau shall establish a mutual-consent, voluntary adoption registry.

(a) Adult adoptees and birth parents of adult adoptees, upon presentation of positive identification, may request identifying information from the bureau, in the form established by the bureau. A court of competent jurisdiction or a child-placing agency may accept that request from the adult adoptee or birth parent, in the form provided by the bureau, and transfer that request to the bureau. The adult adoptee or birth parent is responsible for notifying the bureau of any change in information contained in the request.

(b) The bureau may only release identifying information to an adult adoptee or birth parent when it receives requests from both the adoptee and his birth parent.

(c) After matching the request of an adult adoptee with that of at least one of his birth parents, the bureau shall notify both the adoptee and the birth parent that the requests have been matched, and disclose the identifying information to those parties. However, if that adult adoptee has a sibling of the same birth parent who is under the age of ~~[21]~~ 18 years, and who was raised in the same family setting as the adult adoptee, the bureau shall not disclose the requested identifying information to that adult adoptee or his birth parent.

(2) (a) Adult adoptees and adult siblings of adult adoptees, upon presentation of positive identification, may request identifying information from the bureau, in the form established by the bureau. A court of competent jurisdiction or a child-placing agency may accept that request from the adult adoptee or adult sibling, in the form provided by the bureau, and transfer that request to the bureau. The adult adoptee or adult sibling is responsible for notifying the bureau of any change in information contained in the request.

(b) The bureau may only release identifying information to an adult adoptee or adult sibling when it receives requests from both the adoptee and his adult sibling.

(c) After matching the request of an adult adoptee with that of his adult sibling, if the bureau has been provided with sufficient information to make that match, the bureau shall notify both the adoptee and the adult sibling that the requests have been matched, and disclose the identifying information to those parties.

(3) Information registered with the bureau under this section is available only to a registered adult adoptee and his registered birth parent or registered adult sibling, under the terms of this section.

(4) Information regarding a birth parent who has not registered a request with the bureau may not be disclosed.

(5) The bureau may charge a fee for services provided under this section, limited to the cost of providing those services.